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Date: June 20, 2008 /Jessica Sexton/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:			
Applicant(s):	Rappaport,*et al.*	Examiner:	Vanel Frenel
Serial No:	09/713,962	Art Unit:	3626
Filing Date:	November 15, 2000		

Title: METHOD, APPARATUS AND SYSTEM FOR COMMUNICATING HEATLHCARE INFORMATION TO AND FROM A PORTABLE, HAND-HELD DEVICE

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

Applicant submits this brief in connection with an appeal of the above-identified patent application. Payment is being submitted via credit card in connection with all fees due regarding this appeal brief. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [MSFTP1835USA].

I. Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))

The real party in interest in the present appeal is Microsoft Corporation, the assignee of the present application.

II. Related Appeals and Interferences (37 C.F.R. §41.37(c)(1)(ii))

Appellants, appellants' legal representative, and/or the assignee of the present application are not aware of any appeals or interferences which may be related to, will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims (37 C.F.R. §41.37(c)(1)(iii))

Claims 1-23 are pending in the application. Claims 1-23 stand rejected by the Examiner. The rejection of claims 1-23 is being appealed.

IV. Status of Amendments (37 C.F.R. §41.37(c)(1)(iv))

No amendments were made subsequent the Final Office Action.

V. Summary of Claimed Subject Matter (37 C.F.R. §41.37(c)(1)(v))

A. Independent claim 1

Independent claim 1 recites a method of communicating healthcare information, the method comprising: displaying a set of codes each corresponding to respective healthcare data, the healthcare data including a plurality of medical diagnoses each of which corresponds to at least one code; storing the set of codes and the medical diagnoses in a memory of a portable terminal (*See*. Fig 2 and related text at pg. 11 lines 14 to pg. 12 line 2); detecting selection by a user of a subset of the displayed codes that corresponds to a medical diagnosis relevant to a patient; and wirelessly transmitting the selected subset of the displayed codes from the portable terminal to a server system via a first network capable of providing communication between the portable terminal and the server system, (*See*. Fig 3 and related text at pg. 12 line 17 to pg. 13 line 2); wherein said wirelessly transmitting causes the healthcare data corresponding to the selected subset of the displayed codes to be provided to a medical patient via a second network

capable of providing communication between the server system and a patient accessible device (*See*. Fig 1 and related text at pg. 8 lines 11 to pg. 10 line 13).

B. Independent claim 9

Independent claim 9 recites an apparatus for communicating healthcare information, the apparatus comprising: a portable terminal to communicate wirelessly with a server system via a first wireless network; a memory, associated with the portable terminal, to store a set of codes and medical diagnoses, each code corresponding to a medical diagnosis relating to healthcare data (*See*. Fig 2 and related text at pg. 11 line 14 to pg. 12 line 2); a display to display the set of codes and the medical diagnoses; and a selector operable by a user to select desired codes of the set of codes for transmission to the server system, the desired codes identifying a medical condition (*See*. Fig 2 and related text at pg. 11 lines 14 to pg. 12 line 2), wherein transmission of the desired codes causes corresponding healthcare data to be provided to a medical patient via a second network, wherein the second network is adapted to provide communication between the server system and a patient accessible device (*See*. Fig 1 and related text at pg. 8 lines 11 to pg. 10 line 13).

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C. Independent claim 12

Independent claim 12 recites a system for communicating healthcare information, the system comprising: at least one portable terminal to communicate wirelessly with a gateway device via a first, wireless network, the portable terminal including: a memory associated therewith for storing a set of codes and medical diagnoses, each code corresponding to respective healthcare data including medical diagnoses (*See*. Fig 2 and related text at pg. 11 line 14 to pg. 12 line 2); a display for displaying the set of codes and the medical diagnoses, each code identifying a medical diagnosis (*See*. Fig 3 and related text at pg. 12 line 6 to16); and a selector operable by a first user to select a set of the codes in connection with formulating a comprehensive medical diagnosis for transmission to the recipient (*See*. Fig 3 and related text at pg. 12 line 17 to pg. 13 line 2); and a first server to communicate with the gateway device and to communicate healthcare information to a second user via a second network, wherein the healthcare information is related to the corresponding set of codes; wherein the gateway device

is capable of facilitating communication between said at least one portable terminal and the first server (*See*. Figs 3 and related text at pg. 20 line 8 to line 13).

D. Independent claim 18

Independent claim 18 recites a system for communicating healthcare information, the system comprising: a gateway device to communicate wirelessly with at least one portable terminal via a first, wireless network and with a first server (*See*. Fig 1 and related text at pg. 9 line 16 to pg. 10 line 18), to receive codes from said at least one portable terminal selected from a set of codes each corresponding to respective healthcare data, and to transmit healthcare information corresponding to the received codes to the first server (*See*. Fig 3 and related text at pg. 12 line 17 to pg. 13 line 2.); and a first server to communicate with the gateway device, to receive the healthcare information from the gateway device and to communicate the healthcare information to a patient on which diagnosis was performed via a second network, wherein the second network is capable of providing communication between the first server and a patient accessible device (*See*. Fig 1 and related text at pg. 8 lines 11 to pg. 10 line 13).

E. Independent claim 21

Independent claim 21 recites A machine-readable medium comprising instructions which, when executed by a machine, cause the machine to perform operations comprising: displaying a set of codes and medical diagnoses on a portable terminal (*See*. Fig 2 and related text at pg. 11 line 14 to pg. 12 line 2), each code corresponding to respective healthcare data, the healthcare data including the medical diagnoses, each of which corresponds to at least one code, wherein the set of codes and the medical diagnoses are stored in a memory of the portable terminal (*See*. Fig 3 and related text at pg. 12 line 6 to 16); detecting selection of a subset of the codes that correspond to a comprehensive medical diagnoses of patient; and wirelessly transmitting the selected subset of codes to a server system via a first network capable of providing communication between the portable terminal and a server system (*See*. Fig 3 and related text at pg. 12 line 17 to pg. 13 line 2), wherein said wirelessly transmitting the subset of codes causes at least some of the medical diagnoses to be provided to the patient via a second network capable of providing communication between the server system and a patient accessible device (*See*. Figs1and related text at pg. 8 lines 11 to pg. 10 line 13).

F. Independent claim 22

Independent claim 22 recites an apparatus, comprising: a memory that stores a codes that respectively correspond to medical diagnoses (*See*. Fig 2 and related text at pg. 11 line 14 to 18); a processor that provides for displaying the codes on a display (*See*. Fig 2 and related text at pg. 11 line 18 to pg. 12 line 6); a selector that receives selections from a doctor of a subset of the codes in connection with formulating a comprehensive medical diagnosis in connection with a patient (*See*. Fig 3 and related text at pg. 12 line 17 to pg. 13 line 2), wherein the apparatus wirelessly transmits the selected subset of codes to a network so that the patient can access the comprehensive medical diagnosis from a remote location (*See*. Fig 1 and related text at pg. 8 lines 11 to pg. 10 line 13).

G. Independent claim 23

Independent claim 23 recites a computer-implemented method that facilitates conveying medical information, comprising: wirelessly receiving a set of codes, selected by a doctor in connection with formulating a medical diagnosis of a patient (*See*. Fig 3 and related text at pg. 20 line 11 to 13); analyzing the set of codes, and generating a medical diagnosis report; and making the medical diagnosis report available to a patient over the Internet (*See*. Figs 3 and related text at pg. 28 lines 4 to pg. 12 to 19).

VI. Grounds of Rejection to be Reviewed (37 C.F.R. §41.37(c)(1)(vi))

A. Whether claims 1-23 are unpatentable under 35 U.S.C. §103(a) over Montlick (US 5,561,446) in view of Lavin, *et al*. (US 5,772,585) and further in view of Gershman, *et al.* (US 6,199,099).

VII. Argument (37 C.F.R. §41.37(c)(1)(vii))

A. Rejection of Claims 1-23 Under 35 U.S.C. §103(a)

Claims 1-23 stand rejected as obvious under 35 U.S.C. §103(a) over Montlick (US 5,561,446) in view of Lavin, *et al*. (US 5,772,585) and further in view of Gershman, *et al.* (US 6,199,099). Reversal of this rejection is requested for the following reasons. Neither Montlick,

Lavin *et al.* or Gershman, *et al.,* alone or in combination, teach or suggest all features of the subject claims.

Appellants' claimed subject matter relates to a method of communicating healthcare information. Medical diagnoses relating to a patient is conveyed using codes, wirelessly to a server where the information is processed and provided to a patient with remote access. To this end, independent claim 1 recites *the healthcare data including a plurality of medical diagnoses each of which corresponds to at least one code**; storing the set of codes and the medical diagnoses in a memory of a portable terminal;** wirelessly transmitting the selected subset of the displayed codes from the portable terminal to a server system via a first network capable of providing communication between the portable terminal and the server system**, wherein said wirelessly transmitting causes the healthcare data corresponding to the selected subset of the displayed codes to be provided to a medical patient via a second network capable of providing communication between the server system and a patient accessible device***. Independent claims 9, 12, 18, 21, 22 and 23 recite similar features. Claim 5 recites ***wherein the recipient is a gateway that connects the first, wireless network to a second network.*** Montlick, Lavin *et al.* and Gershman, *et al.*, alone or in combination, fail to teach or suggest such novel features.

Montlick teaches a system and method for wireless remote information retrieval and pen based data entry. At page 2 of the Office Action, the Examiner contends that Montlick teaches storing the set of codes and the medical diagnoses in a memory of a portable terminal. Appellants' representative avers to the contrary. At the cited portions, Montlick discloses a doctor entering information in a graphical interface displayed on a pen-based computer using a stylus in the form of handwriting or by making a selection from a check box in a form. However, the forms are stored in the memory of the central computer, retrieved via the wireless network and provided to the user via the graphical user interface (See. col. 5, lines 36-42). After the selections are made, they are transmitted back to the central server and stored in the memory associated with the server (See. col. 10, lines 29-36). Thus, the system stores patient information records in the memory of the central computer, comprising a digital data document with data entered via the virtual keyboard and transmitted to the central computer. In contrast, the claimed invention allows for storing the set of medical diagnoses with corresponding codes in the memory of the portable terminal. Thus, Montlick is silent regarding ***storing the set of codes*** *and the medical diagnoses* ***in a memory of a portable terminal*** as recited by the subject claims.

At page 2 of the Office Action, the Examiner concedes that Montlick does not teach providing to a medical patient via a patient accessible device, healthcare data via a second network. The Examiner cites Lanvin *et al.* to cure the aforementioned deficiencies of Montlick.

Lanvin *et al.* relates to a system and method for managing patient medical information and handling examination information. The system comprises a computer network with a server that stores permanent patient information in a relational database, and one or more workstations that can communicate with the server, where the workstations can be fixed or portable. The user is allowed to input information via a graphical user interface that provides data entry screens associated with tables in the relational database, which is stored in the memory associated with the server. The database of diagnoses is made available to the user via a diagnosis list display associated with a table of the database. (See. Col 13, lines 17-23). Thus, the set of codes and medical diagnoses are stored in the memory of the central server. Lanvin et al. is silent regarding ***storing the set of codes and the medical diagnoses in a memory of a portable terminal*** as recited by the subject claims. Further, at page 3 of the Office Action, the Examiner contends that Lanvin *et al.* teaches the healthcare data corresponding to the selected subset of the displayed codes is provided to a medical patient via a second network capable of providing communication between the server system and a patient accessible device. Appellants' representative avers to the contrary. At the cited portions, Lanvin *et al.* discloses a physician entering diagnoses and procedure data into a data entry screen at a workstation. This data is listed and recorded to aid in the billing process to bill a patient for the treatment. However, the system only allows medical practitioners and staff in a medical clinic environment to access patient information and input diagnoses/procedure information via different screens on a workstation, where access to the database is secured by the use of passwords (See. Col 5, lines 36-47). Thus, a patient would not be allowed to access the system, rather a billing module would output a bill which would be given to the patient. Nowhere does Lanvin disclose a patient accessible device, or providing the patient with healthcare data via a second network, and thus is silent regarding ***wherein said wirelessly transmitting causes the healthcare data corresponding to the selected subset of the displayed codes to be provided to a medical patient via a second network capable of providing communication between the server system and a patient accessible device***, or ***wherein the***

recipient is a gateway that connects the first, wireless network to a second network as recited by the subject claims.

Gershman *et al*. also fails to teach the aforementioned claimed aspects of ***storing the set of codes and the medical diagnoses in a memory of a portable terminal*** . Rather, it discloses making consumer information available remotely in connection with facilitating remote consumer transactions. However, Gershman *et al*. does disclose *causing healthcare data to be provided to a medical patient via a second network*, and does not make up for the aforementioned deficiencies of Montlick and Lanvin *et al*. with respect to the independent claims.

In view of at least the foregoing it is readily apparent that Montlick, Lavin *et al*. and Gershman *et al*., either alone or in combination do not teach or suggest each and every element set forth in the applicants' subject claims. Accordingly it is requested that this rejection should be reversed.

B. Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1-23 be reversed.

If any additional fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP1835USA].

Respectfully submitted,
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VIII. Claims Appendix (37 C.F.R. §41.37(c)(1)(viii))

1. A method of communicating healthcare information, the method comprising:

displaying a set of codes each corresponding to respective healthcare data, the healthcare data including a plurality of medical diagnoses each of which corresponds to at least one code;

storing the set of codes and the medical diagnoses in a memory of a portable terminal;

detecting selection by a user of a subset of the displayed codes that corresponds to a medical diagnosis relevant to a patient; and

wirelessly transmitting the selected subset of the displayed codes from the portable terminal to a server system via a first network capable of providing communication between the portable terminal and the server system, wherein said wirelessly transmitting causes the healthcare data corresponding to the selected subset of the displayed codes to be provided to a medical patient via a second network capable of providing communication between the server system and a patient accessible device.

2. The method of claim 1 wherein the portable terminal is a cellular telephone having an on-board memory, the set of codes being one of an ICD-9CM diagnosis code, an ICD-10CM diagnosis code, and an HCPCS/CPT code stored in the on-board memory.

3. The method of claim 1 wherein the code is transmitted via a first, wireless network.

4. The method of claim 3 wherein the first, wireless network is one of a CDMA network, a GSM network, a TDMA network and a CPDP network.

5. The method of claim 3 wherein the recipient is a gateway that connects the first, wireless network to a second network.

6. The method of claim 5 wherein the second network comprises the Internet/World Wide Web.

7. The method of claim 1 wherein the code is transmitted using Wireless Mark-up Language (WML).

8. The method of claim 5 wherein the healthcare data corresponding to the transmitted selected subset of the displayed codes is associated with corresponding healthcare information in a database, and wherein said corresponding healthcare information is is transmitted to a patient on which diagnosis was performed via the second network.

9. Apparatus for communicating healthcare information, the apparatus comprising:

a portable terminal to communicate wirelessly with a server system via a first, wireless network;

a memory, associated with the portable terminal, to store a set of codes and medical diagnoses, each code corresponding to a medical diagnosis relating to healthcare data;

a display to display the set of codes and the medical diagnoses; and

a selector operable by a user to select desired codes of the set of codes for transmission to the server system, the desired codes identifying a medical condition, wherein transmission of the desired codes causes corresponding healthcare data to be provided to a medical patient via a second network, wherein the second network is adapted to provide communication between the server system and a patient accessible device.

10. The apparatus of claim 9 wherein the portable terminal is a cellular telephone and the memory is an on-board memory of the cellular telephone, the set of codes being one of an ICD-9CM diagnosis code, an ICD-10CM diagnosis code, and HCPCS/CPT code.

11. The apparatus of claim 10 where in the cellular telephone is a WAP-enabled telephone arranged to transmit the selected codes via the first, wireless network utilizing a WAP protocol.

12. A system for communicating healthcare information, the system comprising:

at least one portable terminal to communicate wirelessly with a gateway device via a first, wireless network, the portable terminal including:

a memory associated therewith for storing a set of codes and medical diagnoses, each code corresponding to respective healthcare data including medical diagnoses;

a display for displaying the set of codes and the medical diagnoses, each code identifying a medical diagnosis; and

a selector operable by a first user to select a set of the codes in connection with formulating a comprehensive medical diagnosis for transmission to the recipient; and

a first server to communicate with the gateway device and to communicate healthcare information to a second user via a second network, wherein the healthcare information is related to the corresponding set of codes ;

wherein the gateway device is capable of facilitating communication between said at least one portable terminal and the first server.

13. The system of claim 12 wherein the portable terminal is a cellular telephone and the memory is an on-board memory of the cellular telephone, the set of codes being one of an ICD-9CM diagnosis code, an ICD-10CM diagnosis code, and HCPCS/CPT code.

14. The system of claim 13 wherein the cellular telephone is a WAP-enabled cellular telephone arranged to transmit the selected codes via the first, wireless network utilizing a WAP protocol.

15. The system of claim 12 wherein the first, wireless network is one of a CDMA network, a GSM network, a TDMA network and a CPDP network.

16. The system of claim 12 wherein the second network comprises the Internet/World Wide Web.

17. The system of claim 12 further comprising a second, application server with an associated database storing healthcare information associated with the codes, the gateway being arranged to communicate with the first server via the application server, thereby to retrieve healthcare information from the database corresponding to received codes and to transmit the healthcare information to an end user via the second network.

18. A system for communicating healthcare information, the system comprising:

a gateway device to communicate wirelessly with at least one portable terminal via a first, wireless network and with a first server, to receive codes from said at least one portable terminal selected from a set of codes each corresponding to respective healthcare data, and to transmit healthcare information corresponding to the received codes to the first server; and

a first server to communicate with the gateway device, to receive the healthcare information from the gateway device and to communicate the healthcare information to a patient on which diagnosis was performed via a second network, wherein the second network is capable of providing communication between the first server and a patient accessible device.

19. The system of claim 18 further comprising a second, application server with an associated database to store healthcare information associated with the codes, the gateway being arranged to communicate with the first server via the second, application server, thereby to retrieve healthcare information from the database corresponding to the received codes and to transmit the retrieved healthcare information to the patient via the second network.

20. The system of claim 19 wherein the first server is a Web server and the second network is the Internet/World Wide Web.

21. A machine-readable medium comprising instructions which, when executed by a machine, cause the machine to perform operations comprising:

displaying a set of codes and medical diagnoses on a portable terminal, each code corresponding to respective healthcare data, the healthcare data including the medical diagnoses, each of which corresponds to at least one code, wherein the set of codes and the medical diagnoses are stored in a memory of the portable terminal;

detecting selection of a subset of the codes that correspond to a comprehensive medical diagnoses of patient; and

wirelessly transmitting the selected subset of codes to a server system via a first network capable of providing communication between the portable terminal and a server system, wherein said wirelessly transmitting the subset of codes causes at least some of the medical diagnoses to be provided to the patient via a second network capable of providing communication between the server system and a patient accessible device.

22. An apparatus, comprising:

a memory that stores a codes that respectively correspond to medical diagnoses;

a processor that provides for displaying the codes on a display;

a selector that receives selections from a doctor of a subset of the codes in connection with formulating a comprehensive medical diagnosis in connection with a patient, wherein the apparatus wirelessly transmits the selected subset of codes to a network so that the patient can access the comprehensive medical diagnosis from a remote location.

23. A computer-implemented method that facilitates conveying medical information, comprising:

wirelessly receiving a set of codes, selected by a doctor in connection with formulating a medical diagnosis of a patient;

analyzing the set of codes, and generating a medical diagnosis report; and

making the medical diagnosis report available to a patient over the Internet.

IX. Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))

None.

X. Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))

None.